THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.24530 OF 2001

DATED: 12-09-2007

Between :

TSR National Junior College, rep. By its Secretary
Correspondent Mr. V. Appala Swamy .... Petitioner

And

The Visakhapatnam Urban Development Authority,
Rep. By its Vice-Chairman, Visakhapatnam and
Another. ... Respondents

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.24530 OF 2001

ORDER :

The petitioner herein is an Educational Institution situated at Pendurthi, Visakhapatnam District which is covered by Visakhapatnam Urban Agglomeration.

It is to be noted that G.O.Rt.No.1623, dated 12-10-1990 was issued by the Government of A.P. liberalizing the conditions for starting new colleges not covered by Common Entrance Test. As per G.O.Rt.No.1623, dated 12-10-1990 the land to be provided by each educational institution with student strength upto 1000 was fixed as 1 acre and for the student strength above 1000 in the Urban agglomeration the extent was fixed as 2 acres. Admittedly, the petitioner institution, which is a junior college, has student strength of only 334. Accordingly, the building for locating the petitioner institution was constructed over an area of 1 acre.

While so, a show-cause notice was issued by the 1st respondent – Visakhapatnam Urban Development Authority dated 5-9-1994 alleging that the construction of the petitioner building was not in accordance with the provisions of A.P. Urban Development Authority Act, 1975. The petitioner made a representation requesting the 1st respondent to regularize the construction of its building in Sy.No.248/2 of Pendurthi Village. However, the request of the petitioner was rejected by the 1st respondent by order dated 2-4-1997 on the ground that the construction made by the petitioner was on an extent of

1,606.24 sq. yards whereas as per G.O.Rt.No.1623, dated 12-10-1990 it should be over an area of 2 acres. Accordingly, the petitioner was advised to get relaxation from the Education Department of the Government of A.P. for reducing the extent of site making it clear that in the absence of such relaxation the construction made by the petitioner cannot be regularized. Aggrieved by the said order, the present writ petition is filed contending *inter alia* that the impugned order is arbitrary, illegal and contrary to the provisions of G.O.Rt.No.1623, dated 12-10-1990.

Though Rule Nisi was ordered on 16-4-2002, the respondents did not choose to file any counter-affidavit.

I have heard the learned Counsel for the petitioner.

A perusal of the material on record, particularly, G.O.Rt.No.1623, dated 12-10-1990, shows that the extent of land where the student strength does not exceed 1000 shall be only Ac.1.00. Since the student strength of the petitioner institution as per the material placed before this Court is less than 1000, I find force in the submission of the learned Counsel for the petitioner that the 1st respondent committed an error in rejecting the petitioner's request for regularization of the construction on the ground that the petitioner failed to make the construction over an area of 2 acres. On the face of it, the ground on which the petitioner's request was rejected was contrary to G.O.Rt.No.1623, dated 12-10-1990 and therefore liable to be set aside on that ground alone.

Accordingly, the impugned order dated 2-4-1997 is hereby set aside and the Writ Petition is disposed of with a direction to the 1st respondent to reconsider the representation of the petitioner for regularization of its building in the light of G.O.Rt.No.1623, dated 12-10-1990 and pass appropriate orders afresh in accordance with law. No costs.

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G. ROHINI, J.

Dt. 12-9-2007

Sj/gbs